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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/941,236    09/30/97    LUGUERN    J    046923

LM02/0902  
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EXAMINER

BOAKYE, A

ART UNIT

PAPER NUMBER

2733

07

DATE MAILED:

09/02/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/941,236

Applicant(s)

Luguern et al.

Examiner

Alexander Boakye

Group Art Unit

2733

☒ Responsive to communication(s) filed on Sep 30, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, 4, and 5 is/are rejected.

☒ Claim(s) 3 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Hanson et al(US Patent 5,633,861).

**Regarding claim 1**, Hanson et al teaches a method of managing traffic for a virtual connection of a packet-based communication network, the method consisting in : transmitting packets from source customer-premises equipment to destination customer-premises equipment(column 4, lines 18-33) as shown in figure 1. Time division multiplexing inherent in the source node to multiplex packets coming from source customer-premises equipment as shown in figure 1. Hanson further discloses measuring the data-rate using the transit module 112(column 2, lines 16-18 ; column 3, lines 58-59) in figure 3.. Hanson discloses temporarily storing the multiplexed packets in a queue(column 5, lines 29-31). Hanson teaches the method of transmitting the stored packets over the virtual connection using the network trunkline 120 as indicated in figure 3. Hanson teaches a method of determining a channel utilization factor(

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column 5, lines 63-66). Hanson discloses a method of transmitting the channel utilization factor to data-rate management means(column 9, lines 20-28) using the server in figure 3.

**Regarding claim 2**, Hanson teaches the time taken by a packet to make a round trip over the communication network(column 6, lines 43-47). Furthermore, Hanson teaches CMP(column 9, lines 22-27). Hanson further discloses lambda (column 9 lines 5-6) See the explanation as set forth in the rejection of claim 1.

**Regarding claim 4**, Hanson teaches a method wherein the channel utilization factor block 310 is inserted into the packets transmitted towards the destination customer-premises equipment as indicated in figure 3.

**Regarding claim 5**, Hanson teaches a method wherein the channel utilization factor is returned is transmitted in a special empty packet towards the destination customer-premises equipment in the absence of return traffic(column 6, lines 1-8)

### ***Allowable Subject Matter***

3. **Claim 3** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (703) 308-9554. The examiner can normally be reached on M-F from 7:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703) 305- 4729. The **informal fax number** (Draft or proposed Amendment) for this Group is (703) 308-6743 wherein the **formal fax number** for the group is (703) 308- 9051. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

AB  
A.Boakye  
8/19/1999



HUY D. VU  
PRIMARY EXAMINER